

REFERENCE TITLE: CORP; disability retirements

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1309**

Introduced by  
Senator Johnson; Representative McClure: Senators Bee, Gray L, Soltero;  
Representatives Farnsworth, Miranda B, Rios P

### **AN ACT**

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 13 AND CHAPTER 308, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 14 AND CHAPTER 308, SECTION 2; REPEALING SECTIONS 38-886 AND 38-886.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-886; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by  
3 Laws 2006, chapter 264, section 13 and chapter 308, section 1, is amended to  
4 read:

5 38-881. Definitions

6 In this article, unless the context otherwise requires:

7 ~~1. "Accidental disability" means a physical or mental condition that~~  
8 ~~the local board finds totally and permanently prevents an employee from~~  
9 ~~performing a reasonable range of duties within the employee's department, was~~  
10 ~~incurred in the performance of the employee's duties and was the result of~~  
11 ~~any of the following:~~

12 ~~(a) Physical contact with inmates, prisoners, parolees or persons on~~  
13 ~~probation.~~

14 ~~(b) Responding to a confrontational situation with inmates, prisoners,~~  
15 ~~parolees or persons on probation.~~

16 ~~(c) A job related motor vehicle accident while on official business~~  
17 ~~for the employee's employer. A job related motor vehicle accident does not~~  
18 ~~include an accident that occurs on the way to or from work. Persons found~~  
19 ~~guilty of violating a personnel rule, a rule established by the employee's~~  
20 ~~employer or a state or federal law in connection with a job related motor~~  
21 ~~vehicle accident do not meet the conditions for accidental disability.~~

22 1. "ACCIDENTAL DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT  
23 THE LOCAL BOARD FINDS TOTALLY AND PERMANENTLY PREVENTS AN EMPLOYEE FROM  
24 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S JOB  
25 CLASSIFICATION AND WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

26 2. "Accumulated member contributions" means the sum of all member  
27 contributions deducted from a member's salary and paid to the fund, plus  
28 member contributions transferred to the fund by another retirement plan  
29 covering public employees of this state, plus previously withdrawn  
30 accumulated member contributions which are repaid to the fund in accordance  
31 with this article, minus any benefits paid to or on behalf of a member.

32 3. "Average monthly salary" means one-thirty-sixth of the aggregate  
33 amount of salary that is paid a member by a participating employer during a  
34 period of thirty-six consecutive months of service in which the member  
35 received the highest salary within the last one hundred twenty months of  
36 service. Average monthly salary means the aggregate amount of salary that is  
37 paid a member divided by the member's months of service if the member has  
38 less than thirty-six months of service. In the computation under this  
39 paragraph, a period of nonpaid or partially paid industrial leave shall be  
40 considered based on the salary the employee would have received in the  
41 employee's job classification if the employee was not on industrial leave.

42 4. "Beneficiary" means an individual who is being paid or who has  
43 entitlement to the future payment of a pension on account of a reason other  
44 than the individual's membership in the retirement plan.

1           5. "CATASTROPHIC DISABILITY" MEANS A PHYSICAL AND NOT A PSYCHOLOGICAL  
2           CONDITION THAT THE LOCAL BOARD DETERMINES PREVENTS THE EMPLOYEE FROM TOTALLY  
3           AND PERMANENTLY ENGAGING IN ANY GAINFUL EMPLOYMENT AND THAT RESULTS FROM A  
4           PHYSICAL INJURY INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

5           ~~5-~~ 6. "Claimant" means a member, beneficiary or estate that files an  
6           application for benefits with the retirement plan.

7           ~~6-~~ 7. "Credited service" means credited service transferred to the  
8           retirement plan from another retirement system or plan for public employees  
9           of this state, plus those compensated periods of service as a member of the  
10          retirement plan for which member contributions are on deposit in the fund.

11          ~~7-~~ 8. "Designated position" means:

12          (a) For a county:

13           (i) A county detention officer.

14           (ii) A nonuniformed employee of a sheriff's department whose primary  
15          duties require direct contact with inmates.

16          (b) For the state department of corrections and the department of  
17          juvenile corrections, only the following specifically designated positions:

18           (i) Food service.

19           (ii) Nursing personnel.

20           (iii) Corrections physician assistant.

21           (iv) Therapist.

22           (v) Corrections dental assistant.

23           (vi) Hygienist.

24           (vii) Corrections medical assistant.

25           (viii) Correctional service officer, including assistant deputy  
26          warden, deputy warden, warden and superintendent.

27           (ix) State correctional program officer.

28           (x) Parole or community supervision officers.

29           (xi) Investigators.

30           (xii) Teachers.

31           (xiii) Institutional maintenance workers.

32           (xiv) Youth corrections officer.

33           (xv) Youth program officer.

34           (xvi) Behavioral health treatment unit managers.

35           (xvii) The director and assistant directors of the department of  
36          juvenile corrections and the superintendent of the state educational system  
37          for committed youth.

38           (xviii) The director, deputy directors and assistant directors of the  
39          state department of corrections.

40           (xix) Other positions designated by the local board of the state  
41          department of corrections or the local board of the department of juvenile  
42          corrections pursuant to section 38-891, subsection E.

43          (c) For a city or town, a city or town detention officer.

44          (d) For an employer of an eligible group as defined in section 38-842,  
45          full-time dispatchers.

(e) For the judiciary, probation, surveillance and juvenile detention officers.

~~8-~~ 9. "Employee" means a person determined by the local board to be employed by a participating employer in a designated position.

~~9-~~ 10. "Employer" means an agency or department of this state or a political subdivision of this state which has one or more employees in a designated position.

~~10-~~ 11. "Fund" means the corrections officer retirement plan fund.

~~11-~~ 12. "Fund manager" means the fund manager of the public safety personnel retirement system.

~~12-~~ 13. "Juvenile detention officer" means a juvenile detention officer responsible for the direct custodial supervision of juveniles who are detained in a county juvenile detention center.

~~13-~~ 14. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~14-~~ 15. "Member" means any employee who meets all of the following qualifications:

(a) Who is a full-time paid person employed by a participating employer in a designated position.

(b) Who is receiving salary for personal services rendered to a participating employer or would be receiving salary except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours each week and for more than six months in a calendar year.

~~15-~~ 16. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

17. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT OR A MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.

~~16-~~ 18. "Participating employer" means an employer which the fund manager has determined to have one or more employees in a designated position or a county, city or town which has entered into a joinder agreement pursuant to section 38-902.

~~17-~~ 19. "Pension" means a series of monthly payments by the retirement plan.

~~18-~~ 20. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

~~19.~~ 21. "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement plan.

~~20.~~ 22. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

~~21.~~ 23. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~22.~~ 24. "Salary" means the base salary, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, fringe benefit pay and similar extra payments.

~~23.~~ 25. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

~~24. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.~~

26. "TEMPORARY DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT THE LOCAL BOARD FINDS TOTALLY AND TEMPORARILY PREVENTS AN EMPLOYEE FROM PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT AND WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws 2006, chapter 264, section 14 and chapter 308, section 2, is amended to read:

38-881. Definitions

In this article, unless the context otherwise requires:

~~1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department, was incurred in the performance of the employee's duties and was the result of any of the following:~~

~~(a) Physical contact with inmates, prisoners, parolees or persons on probation.~~

~~(b) Responding to a confrontational situation with inmates, prisoners, parolees or persons on probation.~~

~~(c) A job-related motor vehicle accident while on official business for the employee's employer. A job-related motor vehicle accident does not include an accident that occurs on the way to or from work. Persons found guilty of violating a personnel rule, a rule established by the employee's employer or a state or federal law in connection with a job-related motor vehicle accident do not meet the conditions for accidental disability.~~

1. "ACCIDENTAL DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT THE LOCAL BOARD FINDS TOTALLY AND PERMANENTLY PREVENTS AN EMPLOYEE FROM PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S JOB CLASSIFICATION AND WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

2. "Accumulated member contributions" means the sum of all member contributions deducted from a member's salary and paid to the fund, plus member contributions transferred to the fund by another retirement plan covering public employees of this state, plus previously withdrawn accumulated member contributions which are repaid to the fund in accordance with this article, minus any benefits paid to or on behalf of a member.

3. "Average monthly salary" means one-thirty-sixth of the aggregate amount of salary that is paid a member by a participating employer during a period of thirty-six consecutive months of service in which the member received the highest salary within the last one hundred twenty months of service. Average monthly salary means the aggregate amount of salary that is paid a member divided by the member's months of service if the member has less than thirty-six months of service. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the salary the employee would have received in the employee's job classification if the employee was not on industrial leave.

4. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

5. "CATASTROPHIC DISABILITY" MEANS A PHYSICAL AND NOT A PSYCHOLOGICAL CONDITION THAT THE LOCAL BOARD DETERMINES PREVENTS THE EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY GAINFUL EMPLOYMENT AND THAT RESULTS FROM A PHYSICAL INJURY INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

~~5.~~ 6. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

~~6.~~ 7. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees of this state, plus those compensated periods of service as a member of the retirement plan for which member contributions are on deposit in the fund.

~~7.~~ 8. "Designated position" means:

(a) For a county:

(i) A county detention officer.

(ii) A nonuniformed employee of a sheriff's department whose primary duties require direct contact with inmates.

1 (b) For the state department of corrections and the department of  
2 juvenile corrections, only the following specifically designated positions:

3 (i) Food service.

4 (ii) Nursing personnel.

5 (iii) Corrections physician assistant.

6 (iv) Therapist.

7 (v) Corrections dental assistant.

8 (vi) Hygienist.

9 (vii) Corrections medical assistant.

10 (viii) Correctional service officer, including assistant deputy  
11 warden, deputy warden, warden and superintendent.

12 (ix) State correctional program officer.

13 (x) Parole or community supervision officers.

14 (xi) Investigators.

15 (xii) Teachers.

16 (xiii) Institutional maintenance workers.

17 (xiv) Youth corrections officer.

18 (xv) Youth program officer.

19 (xvi) Behavioral health treatment unit managers.

20 (xvii) The director and assistant directors of the department of  
21 juvenile corrections and the superintendent of the state educational system  
22 for committed youth.

23 (xviii) The director, deputy directors and assistant directors of the  
24 state department of corrections.

25 (xix) Other positions designated by the local board of the state  
26 department of corrections or the local board of the department of juvenile  
27 corrections pursuant to section 38-891, subsection E.

28 (c) For a city or town, a city or town detention officer.

29 (d) For an employer of an eligible group as defined in section 38-842,  
30 full-time dispatchers.

31 (e) For the judiciary, probation, surveillance and juvenile detention  
32 officers.

33 ~~8-~~ 9. "Employee" means a person determined by the local board to be  
34 employed by a participating employer in a designated position.

35 ~~9-~~ 10. "Employer" means an agency or department of this state or a  
36 political subdivision of this state which has one or more employees in a  
37 designated position.

38 ~~10-~~ 11. "Fund" means the corrections officer retirement plan fund.

39 ~~11-~~ 12. "Fund manager" means the fund manager of the public safety  
40 personnel retirement system.

41 ~~12-~~ 13. "Juvenile detention officer" means a detention officer  
42 responsible for the direct custodial supervision of juveniles who are  
43 detained in a county juvenile detention center.

~~13.~~ 14. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~14.~~ 15. "Member" means any employee who meets all of the following qualifications:

(a) Who is a full-time paid person employed by a participating employer in a designated position.

(b) Who is receiving salary for personal services rendered to a participating employer or would be receiving salary except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours each week and for more than six months in a calendar year.

~~15.~~ 16. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

17. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT OR A MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.

~~16.~~ 18. "Participating employer" means an employer which the fund manager has determined to have one or more employees in a designated position or a county, city or town which has entered into a joinder agreement pursuant to section 38-902.

~~17.~~ 19. "Pension" means a series of monthly payments by the retirement plan.

~~18.~~ 20. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

~~19.~~ 21. "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement plan.

~~20.~~ 22. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

~~21.~~ 23. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~22.~~ 24. "Salary" means the base salary, overtime pay, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis, except that for the purposes of this paragraph the amount of overtime included shall not include payments to the member for the sale of compensatory time. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not



1 include payment for any remuneration or reimbursement other than as  
 2 prescribed by this paragraph. For the purposes of this paragraph, "base  
 3 salary" means the amount of compensation each member is regularly paid for  
 4 personal services rendered to an employer before the addition of any extra  
 5 monies, including overtime pay, shift differential pay, holiday pay, payments  
 6 for the sale of compensatory time, fringe benefit pay and similar extra  
 7 payments.

8 ~~23.~~ 25. "Service" means employment rendered to a participating  
 9 employer as an employee in a designated position. Any absence that is  
 10 authorized by an employer, including any periods during which the employee is  
 11 on an employer sponsored long-term disability program, is considered as  
 12 service if the employee returns or is deemed by the employer to have returned  
 13 to a designated position within the period of the authorized absence.

14 ~~24. "Total and permanent disability" means a physical or mental~~  
 15 ~~condition that is not an accidental disability, that the local board finds~~  
 16 ~~totally and permanently prevents a member from engaging in any gainful~~  
 17 ~~employment and that is the direct and proximate result of the member's~~  
 18 ~~performance of the member's duty as an employee of a participating employer.~~

19 26. "TEMPORARY DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT  
 20 THE LOCAL BOARD FINDS TOTALLY AND TEMPORARILY PREVENTS AN EMPLOYEE FROM  
 21 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT AND  
 22 WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

23 Sec. 3. Repeal

24 Sections 38-886 and 38-886.01, Arizona Revised Statutes, are repealed.

25 Sec. 4. Title 38, chapter 5, article 6, Arizona Revised Statutes, is  
 26 amended by adding a new section 38-886, to read:

27 38-886. Requirements for normal and disability pensions: amount  
 28 of pensions

29 A. A MEMBER SHALL BE ELIGIBLE FOR A NORMAL PENSION ON RETIREMENT ON OR  
 30 AFTER THE MEMBER'S NORMAL RETIREMENT DATE. PAYMENT OF A NORMAL PENSION SHALL  
 31 COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF RETIREMENT,  
 32 AND THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH  
 33 THE DEATH OF THE RETIRED MEMBER OCCURS.

34 B. A MEMBER IS ELIGIBLE FOR AN ACCIDENTAL DISABILITY PENSION IF THE  
 35 MEMBER'S EMPLOYMENT IS TERMINATED BY REASON OF ACCIDENTAL DISABILITY. A  
 36 MEMBER IS ELIGIBLE FOR AN ORDINARY DISABILITY PENSION IF THE MEMBER'S  
 37 EMPLOYMENT IS TERMINATED BEFORE THE MEMBER'S NORMAL RETIREMENT DATE BY REASON  
 38 OF ORDINARY DISABILITY. A MEMBER SHALL FILE AN APPLICATION FOR A DISABILITY  
 39 PENSION AFTER THE DISABLING INCIDENT OR WITHIN ONE YEAR AFTER THE DATE THE  
 40 MEMBER CEASES TO BE AN EMPLOYEE. TIMELY APPLICATION FOR AN ACCIDENTAL,  
 41 CATASTROPHIC OR ORDINARY DISABILITY PENSION IS A PREREQUISITE TO RECEIPT OF  
 42 THE PENSION. PAYMENT OF AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY  
 43 PENSION SHALL COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF  
 44 RETIREMENT OR THE EXPIRATION OF A PERIOD DURING WHICH THE MEMBER IS RECEIVING  
 45 SICK LEAVE PAYMENTS OR A TEMPORARY DISABILITY PENSION, WHICHEVER IS LATER.

1 THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE  
2 DEATH OF THE RETIRED MEMBER OCCURS OR, IF DISABILITY CEASES BEFORE THE  
3 MEMBER'S NORMAL RETIREMENT DATE, THE FIRST DAY OF THE MONTH IN WHICH  
4 DISABILITY CEASES.

5 C. A MEMBER IS ELIGIBLE FOR A CATASTROPHIC DISABILITY PENSION IF THE  
6 MEMBER'S EMPLOYMENT IS TERMINATED BY REASON OF CATASTROPHIC DISABILITY. IF  
7 MORE THAN THE ALLOWABLE CATASTROPHIC DISABILITY PENSIONS ARE APPROVED BY THE  
8 LOCAL BOARDS IN A CALENDAR YEAR, FROM AND AFTER DECEMBER 31 OF THE FOLLOWING  
9 CALENDAR YEAR A MEMBER OF THE PLAN IS NOT ELIGIBLE TO APPLY FOR A  
10 CATASTROPHIC DISABILITY PENSION. ON OR BEFORE JANUARY 31, THE FUND MANAGER  
11 SHALL REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
12 REPRESENTATIVES THE NUMBER OF CATASTROPHIC DISABILITY PENSIONS THAT WERE  
13 APPROVED BY THE LOCAL BOARDS IN THE PRECEDING CALENDAR YEAR. FOR THE  
14 PURPOSES OF THIS SUBSECTION, "ALLOWABLE CATASTROPHIC DISABILITY PENSIONS"  
15 MEANS FOR CALENDAR YEAR 2007, TEN, AND FOR SUBSEQUENT CALENDAR YEARS THE  
16 NUMBER OF ALLOWABLE CATASTROPHIC DISABILITY PENSIONS ALLOWED IN THE PRIOR  
17 CALENDAR YEAR MINUS THE NUMBER OF CATASTROPHIC DISABILITY PENSIONS APPROVED  
18 BY THE LOCAL BOARDS IN THE PRIOR CALENDAR YEAR PLUS FOUR.

19 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A MEMBER SHALL  
20 NOT QUALIFY FOR AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY PENSION IF  
21 THE LOCAL BOARD DETERMINES THAT THE MEMBER'S DISABILITY RESULTS FROM THE  
22 FOLLOWING:

23 1. AN INJURY SUFFERED WHILE ENGAGED IN A FELONIOUS CRIMINAL ACT OR  
24 ENTERPRISE.

25 2. SERVICE IN THE ARMED FORCES OF THE UNITED STATES THAT ENTITLES THE  
26 MEMBER TO A VETERAN'S DISABILITY PENSION.

27 3. A PHYSICAL OR MENTAL CONDITION OR INJURY THAT EXISTED OR OCCURRED  
28 BEFORE THE MEMBER'S DATE OF MEMBERSHIP IN THE PLAN.

29 E. ACCIDENTAL OR ORDINARY DISABILITY SHALL BE CONSIDERED TO HAVE  
30 CEASED AND AN ACCIDENTAL OR ORDINARY DISABILITY PENSION TERMINATES IF THE  
31 MEMBER:

32 1. HAS SUFFICIENTLY RECOVERED, IN THE OPINION OF THE LOCAL BOARD,  
33 BASED ON A MEDICAL EXAMINATION BY A PHYSICIAN OR CLINIC APPOINTED BY THE  
34 LOCAL BOARD, TO BE ABLE TO ENGAGE IN A REASONABLE RANGE OF DUTIES WITHIN THE  
35 MEMBER'S DEPARTMENT AND THE MEMBER REFUSES AN OFFER OF EMPLOYMENT BY AN  
36 EMPLOYER IN THE PLAN.

37 2. REFUSES TO UNDERGO ANY MEDICAL EXAMINATION REQUESTED BY THE BOARD,  
38 EXCEPT THAT A MEDICAL EXAMINATION SHALL NOT BE REQUIRED MORE FREQUENTLY THAN  
39 ONCE IN ANY CALENDAR YEAR.

40 F. SIXTY MONTHS AFTER THE AWARD OF A CATASTROPHIC DISABILITY PENSION,  
41 THE LOCAL BOARD SHALL REEVALUATE THE MEMBER. IF THE MEMBER STILL QUALIFIES  
42 FOR THE CATASTROPHIC DISABILITY PENSION, THE MEMBER IS ENTITLED TO CONTINUE  
43 TO RECEIVE THE PENSION AT THE REDUCED AMOUNT PRESCRIBED IN SUBSECTION P OF  
44 THIS SECTION. A CATASTROPHIC DISABILITY SHALL BE CONSIDERED TO HAVE CEASED  
45 AND A CATASTROPHIC DISABILITY PENSION TERMINATES IF THE LOCAL BOARD

1 DETERMINES THAT THE MEMBER HAS SUFFICIENTLY RECOVERED AND IS ABLE TO ENGAGE  
2 IN GAINFUL EMPLOYMENT BASED ON A MEDICAL EXAMINATION BY A PHYSICIAN OR A  
3 CLINIC APPOINTED BY THE LOCAL BOARD. AFTER THE SIXTY MONTH REVIEW, THE  
4 CATASTROPHIC DISABILITY SHALL BE CONSIDERED TO HAVE CEASED AND A CATASTROPHIC  
5 DISABILITY PENSION TERMINATES IF THE LOCAL BOARD DETERMINES THAT THE MEMBER  
6 HAS SUFFICIENTLY RECOVERED AND IS ABLE TO ENGAGE IN GAINFUL EMPLOYMENT BASED  
7 ON A MEDICAL EXAMINATION BY A PHYSICIAN OR A CLINIC APPOINTED BY THE LOCAL  
8 BOARD, EXCEPT THAT THE MEDICAL EXAMINATION SHALL NOT BE REQUIRED MORE  
9 FREQUENTLY THAN ONCE IN A CALENDAR YEAR. THE MEDICAL REVIEW AFTER THE SIXTY  
10 MONTH PERIOD DOES NOT APPLY AFTER THE DATE THE CATASTROPHIC DISABILITY  
11 PENSIONER WOULD HAVE ATTAINED TWENTY-FIVE YEARS OF SERVICE ASSUMING THE  
12 PENSIONER REMAINED A MEMBER OF THE PLAN. THE LOCAL BOARD SHALL ALSO  
13 TERMINATE A CATASTROPHIC DISABILITY PENSION IF THE MEMBER REFUSES TO UNDERGO  
14 ANY MEDICAL EXAMINATION REQUESTED BY THE BOARD. A MEMBER WHOSE CATASTROPHIC  
15 DISABILITY PENSION IS TERMINATED MAY APPLY FOR AND, IF ELIGIBLE, IS ENTITLED  
16 TO RECEIVE AN ACCIDENTAL DISABILITY PENSION AS PROVIDED IN THIS SECTION.

17 G. SUBSECTION E OF THIS SECTION DOES NOT APPLY AFTER A DISABILITY  
18 PENSIONER'S NORMAL RETIREMENT DATE. THE AMOUNT OF A DISABILITY PENSION SHALL  
19 NOT BE RECOMPUTED AT A DISABILITY PENSIONER'S NORMAL RETIREMENT DATE.

20 H. AN ORDINARY DISABILITY PENSION SHALL BE REDUCED IN THE PERIOD  
21 BEFORE THE MEMBER'S NORMAL RETIREMENT DATE IF THE MEMBER ENGAGES IN ANY  
22 EMPLOYMENT AND IF THE MEMBER'S INCOME FROM THIS EMPLOYMENT IS GREATER THAN  
23 THE MEMBER'S PENSION UNREDUCED BY THIS SUBSECTION. THE AMOUNT OF THE  
24 REDUCTION SHALL BE EQUAL TO THE DIFFERENCE BETWEEN THE MEMBER'S INCOME FROM  
25 EMPLOYMENT AND THE MEMBER'S UNREDUCED PENSION. THE LOCAL BOARD MAY SUSPEND  
26 PAYMENTS OF AN ORDINARY DISABILITY PENSION IF THE DISABLED MEMBER FAILS TO  
27 REPORT EARNED INCOME. THIS SUSPENSION SHALL BE FOR THE PERIOD THERE IS NO  
28 SATISFACTORY REPORT WITH RESTORATION OF BENEFITS ON ACCEPTANCE OF SUCH REPORT  
29 OR UNTIL THE MEMBER'S NORMAL RETIREMENT DATE, WHICHEVER OCCURS EARLIER. IF,  
30 IN THE OPINION OF THE LOCAL BOARD, THE REDUCTION PROVIDED IN THIS SUBSECTION  
31 IS INSUFFICIENT TO RECOVER MONIES PREVIOUSLY PAID TO A MEMBER, EACH LOCAL  
32 BOARD MAY BRING AN ACTION TO RECOVER ANY OUTSTANDING BALANCE DUE,  
33 NOTWITHSTANDING ANY OTHER RIGHTS THE LOCAL BOARD POSSESSES.

34 I. IF ACCIDENTAL OR ORDINARY DISABILITY CEASES BEFORE A RETIRED MEMBER  
35 ATTAINS THE MEMBER'S NORMAL RETIREMENT DATE AND THE MEMBER IS REEMPLOYED BY  
36 AN EMPLOYER, THE PENSION PAYABLE ON THE MEMBER'S SUBSEQUENT RETIREMENT SHALL  
37 BE DETERMINED AS PROVIDED IN SUBSECTION L OF THIS SECTION.

38 J. A MEMBER SHALL BE ELIGIBLE FOR A TEMPORARY DISABILITY PENSION IF  
39 THE MEMBER'S EMPLOYMENT IS TERMINATED BEFORE THE MEMBER'S NORMAL RETIREMENT  
40 DATE BY REASON OF TEMPORARY DISABILITY. PAYMENT OF A TEMPORARY DISABILITY  
41 PENSION SHALL COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF  
42 DISABILITY OR THE EXPIRATION OF A PERIOD DURING WHICH THE MEMBER IS RECEIVING  
43 COMPENSATION AND SICK LEAVE PAYMENTS, WHICHEVER IS LATER. THE LAST PAYMENT  
44 SHALL BE MADE AS OF THE FIRST DAY OF THE MONTH IN WHICH EITHER THE DEATH OF  
45 THE MEMBER OCCURS OR THE LOCAL BOARD DEEMS THE MEMBER IS NO LONGER UNDER

1 TEMPORARY DISABILITY, WHICHEVER FIRST OCCURS, EXCEPT THAT NO MORE THAN TWELVE  
2 MONTHLY TEMPORARY DISABILITY PAYMENTS SHALL BE MADE IN TOTAL TO THE MEMBER.

3 K. IF ON THE EXPIRATION OF A TEMPORARY DISABILITY PENSION THE LOCAL  
4 BOARD FINDS ON APPLICATION THAT THE MEMBER HAS AN ACCIDENTAL OR ORDINARY  
5 DISABILITY, THE MEMBER SHALL BE ELIGIBLE FOR AN ACCIDENTAL OR ORDINARY  
6 DISABILITY PENSION, AS PROVIDED IN THIS SECTION.

7 L. IF A RETIRED MEMBER IS REEMPLOYED BY AN EMPLOYER, NO CONTRIBUTIONS  
8 SHALL BE MADE ON THE RETIRED MEMBER'S ACCOUNT, NOR ANY SERVICE CREDITED,  
9 DURING THE PERIOD OF SUCH REEMPLOYMENT. NOTWITHSTANDING THIS SUBSECTION, IF  
10 A RETIRED MEMBER SUBSEQUENTLY BECOMES EMPLOYED IN THE SAME POSITION BY THE  
11 EMPLOYER FROM WHICH THE MEMBER RETIRED, THE PLAN SHALL NOT MAKE PENSION  
12 PAYMENTS TO THE RETIRED MEMBER DURING THE PERIOD OF REEMPLOYMENT. ON  
13 SUBSEQUENT TERMINATION OF EMPLOYMENT BY THE RETIRED MEMBER, THE RETIRED  
14 MEMBER IS ENTITLED TO RECEIVE A PENSION BASED ON THE MEMBER'S SERVICE AND  
15 COMPENSATION BEFORE THE DATE OF THE MEMBER'S REEMPLOYMENT. IF A MEMBER WHO  
16 RETIRED UNDER DISABILITY IS REEMPLOYED BY AN EMPLOYER AS AN EMPLOYEE, THAT  
17 MEMBER SHALL BE TREATED AS IF THE MEMBER HAD BEEN ON AN UNCOMPENSATED LEAVE  
18 OF ABSENCE DURING THE PERIOD OF THE MEMBER'S DISABILITY RETIREMENT AND SHALL  
19 BE A CONTRIBUTING MEMBER OF THE PLAN. FOR THE PURPOSES OF THIS SUBSECTION,  
20 "SAME POSITION" MEANS THE MEMBER IS IN A POSITION IN WHICH THE MEMBER  
21 PERFORMS DUTIES THAT ARE THE SAME DUTIES THAT WERE PERFORMED, AND EXERCISES  
22 AUTHORITY THAT IS THE SAME AUTHORITY THAT WAS EXERCISED, BY THE MEMBER BEFORE  
23 THE MEMBER'S RETIREMENT.

24 M. A MEMBER WHO MEETS THE REQUIREMENTS FOR AN ACCIDENTAL DISABILITY  
25 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS COMPUTED IN THE SAME MANNER AS  
26 A NORMAL PENSION, USING THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION  
27 BEFORE TERMINATION OF EMPLOYMENT AND THE MEMBER'S ACTUAL CREDITED SERVICE OR  
28 TWENTY YEARS OF CREDITED SERVICE, WHICHEVER IS GREATER.

29 N. A MEMBER WHO MEETS THE REQUIREMENTS FOR AN ORDINARY DISABILITY  
30 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS EQUAL TO A FRACTION TIMES THE  
31 MEMBER'S NORMAL PENSION THAT IS COMPUTED ACCORDING TO SECTION 38-885,  
32 SUBSECTION C IF THE MEMBER HAD TWENTY YEARS OF CREDITED SERVICE. THE  
33 FRACTION IS THE RESULT OBTAINED BY DIVIDING THE MEMBER'S ACTUAL YEARS OF  
34 CREDITED SERVICE, NOT TO EXCEED TWENTY YEARS OF CREDITED SERVICE, BY TWENTY.

35 O. A MEMBER WHO MEETS THE REQUIREMENTS FOR A TEMPORARY DISABILITY  
36 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS EQUAL TO ONE-TWELFTH OF FIFTY  
37 PER CENT OF THE MEMBER'S ANNUAL COMPENSATION RECEIVED IMMEDIATELY BEFORE THE  
38 DATE ON WHICH THE MEMBER'S DISABILITY WAS INCURRED.

39 P. A MEMBER WHO MEETS THE REQUIREMENTS FOR A CATASTROPHIC DISABILITY  
40 PENSION IS ENTITLED TO RECEIVE A MONTHLY AMOUNT COMPUTED AS FOLLOWS:

41 1. FOR THE FIRST SIXTY MONTHS, NINETY PER CENT OF THE MEMBER'S AVERAGE  
42 MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT.

43 2. AFTER SIXTY MONTHS, SIXTY-TWO AND ONE-HALF PER CENT OF THE MEMBER'S  
44 AVERAGE MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT OR  
45 COMPUTED IN THE SAME MANNER AS A NORMAL PENSION USING THE MEMBER'S AVERAGE

1 MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT AND THE  
2 MEMBER'S ACTUAL CREDITED SERVICE, WHICHEVER IS GREATER.

3 Q. A MEMBER WHO WAS EMPLOYED BEFORE SEPTEMBER 15, 1989 BY AN EMPLOYER  
4 PARTICIPATING IN THE PLAN AND WHO RETIRES ON OR AFTER NOVEMBER 1, 2001 IS  
5 ENTITLED TO RECEIVE A TAX EQUITY BENEFIT ALLOWANCE CONSISTING OF A PERMANENT  
6 INCREASE OF TWO PER CENT OF THE MEMBER'S BASE BENEFIT RETROACTIVE TO THE DAY  
7 OF RETIREMENT.

8 Sec. 5. Conditional enactment

9 Section 38-881, Arizona Revised Statutes, as amended by Laws 2006,  
10 chapter 264, section 14 and chapter 308, section 2 and section 2 of this act,  
11 becomes effective on the date prescribed in Laws 2005, chapter 324, section 2  
12 but only on the occurrence of the condition prescribed by Laws 2005, chapter  
13 324, section 2.